

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

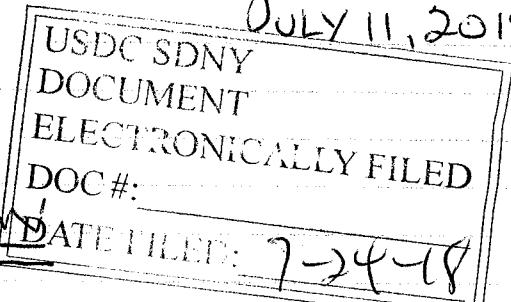
PETITIONER PRO-SE
CARL HALL

vs

UNITED STATES OF AMERICA

CASE # 00-CR-103 (JSR)
10-CV-58 (JSR)

DATE FILED: JULY 11, 2018



MEMORANDUM OF LAW
RECONSIDERATION — REHEARING

AUDITA QUERELA MOTION

REASONS FOR GRANTING THIS MOTION

UNDER LAW RECONSIDERATION — REHEARING...

- 1) THE COURT APPLIED SEVERAL ENHANCEMENTS TO PETITIONER'S SENTENCE...
- 2) THE PETITIONER'S DUE PROCESS CLAUSE WAS VIOLATED BY NO 851 ENHANCEMENT WARNING...
- 3) THE MATTER ON GROUNDS OF NEWLY DISCOVERED EXISTING LEGAL DEFENSES, NEW CASE LAW...

2018 JUL 24 PM 3:15
SDNY RECEIVED IN CLERK'S OFFICE
RECEIVED UNIT
MOTION

COMES NOW PRO-SE PETITIONER CARL HALL
TO ASK THIS COURT TO REHEAR AND RECONSIDER
CASE # 00-CR-103 AND 10-CV-58 TO COMMUTE HIS
SENTENCE TO TIME SERVED IN LIGHT OF NEW CASE
LAW. SEE CROSS VS U.S., UNITED STATES COURT OF
APPEALS FOR THE SEVENTH CIRCUIT, #17-2282 & 17-2724,
DECIDED JUNE 7, 2018... SEE SUPREME COURT RULING
IN, JOHNSON VS U.S., 135 S. CT. 2551, 192 L. ED.
2D 569 (2015)... SEE PEUGH VS U.S., 569 U.S. 530
133 S. CT. 2072, 186 L. ED. 2D 84 (2013)... PLEASE
TAKE INTO CONSIDERATION DODD VS U.S. WHICH
CLARIFIES THAT THIS LIMITATION PERIOD BEGINS
WHEN THE SUPREME COURT DECLARES A NEW RIGHT, NOT
FROM ONE YEAR DATE! THE COURTS MUST ALWAYS CONSTRU
PLEA AGREEMENTS ACCORDING TO THE PRINCIPLES OF
CONTRACT LAW, WITH A HEIGHTENED OBLIGATION BOTH
TO SECURE FOR DEFENDANTS THE BENEFITS OF THEIR
NEGOTIATION AND TO RESTRICT ONLY THOSE RIGHTS THEY
PROPERLY RELINQUISHED! AN UN-WARNED ENHANCEMENT
VIOLATES THAT FAIRNESS UNDER THE DUE PROCESS CLAUSE!

SEE QUINTERO VS U.S., 618 F.3D 746, 751 (2010)..
FUTHERMORE, PRO-SE PETITIONER CARL HALL HAS
A CALCULATION POINTS FLAW AS WELL PERTAINING
TO THE GUIDELINES.

I PROCEED IN THIS MATTER
WITHOUT THE REPRESENTATION OF COUNSEL AND I
RESPECTFULLY INVOKE THE RULES ESTABLISHED IN
HAINES VS KERNER, 404 U.S. 519, 520 (1972) HOLDING
PRO-SE LITIGANTS TO LESS STRINGENT STANDARDS
THEN FORMAL PLEADINGS DRAFTED BY LAWYERS FOR
WHICH I REQUEST THAT THE COURT CONSTRUE THIS
PRO-SE MOTION LIBERALLY.

THIS HONORABLE COURT
MAINTAINS JURISDICTION TO HEAR THIS MOTION FOR
RECONSIDERATION - REHEARING AUDITA QUERALA
UNDER THE ALL WRITS ACT, 28 U.S.C § 1651. SEE
RICHTER VS U.S., 510 F.3D 103, 104 (2ND CIRCUIT 2007)
PETITION FOR AUDITA QUERALA MAY NOT BE USED TO
CIRCUMVENT AEDPA'S SECOND OR SUCCESSIVE RESTRICTION
BETTER USED TO FILL IN GAPS IN FEDERAL APPEALS
AND OVERTURN CONVICTIONS FOR RESENTENCING.

A WRIT OF AUDITA QUERELA IS USED TO CHALLENGE JUDGMENT THAT WAS CORRECT AT THE TIME IT WAS THEN RENDERED BUT WHICH IS RENDERED INFIRM BY MATTERS WHICH ARISE AFTER IT'S RENDITION. SURELY THE GOVERNMENT WILL CONCEDE THAT CARL HALL HAS UNDERTAKEN SIGNIFICANT INSTITUTIONAL EDUCATION AND REHABILITATION... SINCE INCARCERATION I HAVE AVOIDED FURTHER CRIMINAL ACTIVITIES, VIOLENCE, AND AM CONSTANTLY MATURING AS A RESPONSIBLE MAN STRIVING TO BE A LAW ABIDING CITIZEN IN SOCIETY... SEE VENTURA VS MEACHUM, 957 F.2D 1048, 1058 (2ND CIRCUIT 1992)... MIS INFORMATION AFFECTED DECISION AND I WOULD NOT HAVE PLED BUT FOR MISADVICE... SEE HOWARD VS U.S. 381 F.3D 873, 882 (9TH CIRCUIT 2004)... PRO-SE PETITIONER WAS CONVICTED AND SENTENCED WHEN THE GUIDELINES WERE MANDATORY, WHILE PROTECTED BY GRIFFITH VS KTY, 479 U.S. 314 (1987) THE UNITED STATES SUPREME COURT RULED IN BLAKELY VS WASHINGTON (2004)...

ONCE BLAKELY VS WASHINGTON (2004) APPLIED
TO THE FEDERAL SENTENCING GUIDELINES THROUGH
BOOKER VS U.S., 125 S. CT. 738 (2005) AND THIS
COURT'S DECISION IN CROSBY VS U.S., 397 F.3D
103 (2ND CIRCUIT 2005), AT THAT POINT PETITIONER
PRO-SE LITIGANT WAS ENTITLED TO A SENTENCE
DETERMINED BY APPRENDI VS NEW JERSEY 530
U.S. 466 120 S. CT 2348, 147, L.ED, 2D 435 THE
JURY VERDICT ALONE, (NO ENHANCEMENTS). WITHIN
BOOKER VS U.S. PART TWO THE REMEDIAL PART,
THE COURT RULED THE GUIDELINES WOULD FROM
THAT POINT ON BE ADVISORY, THE REMEDIAL PARTS
WAS EVEN RULED RETRO-ACTIVE AND PRO-SE PETITIONER
LITIGANT CARL HALL WAS RE-SENTENCED, YET
SADLY ONLY THE REMEDIAL PART WAS USED AND I
AM STILL STUCK WITH SEVERAL ENHANCEMENTS.
SEE WILLIAMS VS ESTELLE, 681 F.2D 946 IN
(5TH CIRCUIT 1982), SEE MCCOY VS U.S. 215 F.3D
102 (D.C. CIRCUIT 2000), SEE BOOZE VS U.S. 293
F.3D 516 (D.C. CIR 2002)...

THE U.S. SUPREME COURT RULED IN A CASE PEUGH VS U.S. 133 S.CT. 2072, 2078, 186 L. ED. 2D. 84 (2013), THAT VIOLATION OF THE EX POST FACTO CLAUSE OCCURS WHEN A DEFENDENT IS SENTENCED UNDER GUIDELINES PROMULGATED AFTER ADVISORY. IN THE MATTER OF LAW, THIS CASE APPLIES TO THE ISSUE'S IN FRONT OF THE COURT. SEE CROSS VS U.S. COURT OF APPEALS 7TH CIRCUIT, # 17-2282 & # 17-2724, DECIDED 6-7-2018.. THERE IS A DEEP SPLIT BETWEEN THE CIRCUITS AND THE DISTRICT COURT JUDGES, SOME JUDGES HAVE RELEASED PRISONER'S, SOME JUDGES HAVE GIVEN TIME SERVED, SOME JUDGES RESENTENCED TO LESSER TIME, AND THAT'S THE ONE MAIN THING ALL JUDGES HAVE THE POWER TO DO. PETITIONER PRO-SE LITIGANT CARL HALL ARGUMENT IS IN CONSISTENCY WITH THESE RULINGS. SEE BOAL VS U.S., 534 F.3D 965, 967, N2 (8TH CIRCUIT 2008), NEWLY DISCOVERED CASE LAWS...

IN CONCLUSION

I RESPECTFULLY ASK THE COURT AND REQUEST
THAT THE COURT ACCEPT THIS MOTION AND
GRANT RELIEF ON THIS MOTION AND CALL
PRO-SE PETITIONER CARL HALL TO THE COURT
AND RE-SENTENCE LITIGANT TO TIME SERVED
AS PER THE CORRECT GUIDELINES! WITHOUT ALL
THE ENHANCEMENTS!

SEE PADILLA VS KENTUCKY
559 U.S. 356, 373, 130 S. CT 1473, 176 L. ED.
2.D 284 (2010) ... SEE ARTECA VS U.S., 411
F.3D 315, 320 (2ND CIRCUIT 2005) ... SEE DAVIS
VS GREINER, 428 F.3D 81, 88 (2ND CIRCUIT 2005) ...
SEE LOPEZ VS SCULLY, 58 F.3D 38 (2ND CIRCUIT 1995) ...
ALL 2ND CIRCUIT RELEVANT CASES THAT WERE
REMANDED BACK TO THE COURTS CONCERNING
THESE SAME ISSUES, EXTRAORDINARY CIRCUMSTANCES!

C
CARL HALL CASE # 7-00-11

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT THIS MOTION
UNDER THE ALL WRITS ACT WAS HAND
DELIVERED TO COUNSELOR BRENDA TORRES
ON JULY 11, 2018 WITH POSTAGE ON
ENVELOPES AND COPIES TO BE SENT TO
THE FOLLOWING ADDRESSES.

I DECLARE
EVERYTHING WRITTEN TO BE TRUE UNDER
THE PENALTY OF PERJURY!

Carl H. Hall

JULY 11, 2018

To: PRO-SE OFFICE (S.D.N.Y)
UNITED STATES DISTRICT COURT
500 PEARL STREET, ROOM 230
NEW YORK, NEW YORK 10007

To: U.S. ATTORNEYS OFFICE (S.D.N.Y)
ONE ST. ANDREW'S PLAZA
NEW YORK, NEW YORK 10007

PRO-SE OFFICE

CLERK

7-11-2018

CAN YOU & WILL YOU
PLEASE PLEASE
FILE THIS MOTION
WITH THE COURT!

SEND ME A RECEIPT
THAT YOU RECEIVED
THIS MOTION A.S.A.P

PLEASE PLEASE
THANK YOU!

Name: CARL HALL
Reg No: 44729-054
U.S. Penitentiary MAX
P.O. Box 8500
Florence, CO 81226-8500 1/15/16 P/M



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To: PRO-SE OFFICE (SDNY)
UNITED STATES DISTRICT COURT
500 PEARL STREET (Room 230)
New York, New York 10007

LEGAL MAIL